



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MV

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/393,590	09/09/1999	ELIZABETH MOYER	00211-US-NEW	2967

21971 7590 05/22/2006

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

EXAMINER

DEVI, SARVAMANGALA J N

ART UNIT PAPER NUMBER

1645

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No.	Applicant(s)	
	09/393,590	MOYER ET AL.	
	Examiner	Art Unit	
	S. Devi, Ph.D.	1645	

All participants (applicant, applicant's representative, PTO personnel):

(1) S. Devi (PTO) (3) _____

(2) Ramin Akhavan (4) _____

Date of Interview: 22 May 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☒ Yes e) ☐ No.

If Yes, brief description: Mr. Akhavan's 'Memorandum' sent in by facsimile on 05/25/06 (see attachment).

Claim(s) discussed: _____

Identification of prior art discussed: _____

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

SD. 05/22/06
S. DEVI, PH.D.
PRIMARY EXAMINER

1+5 pages

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

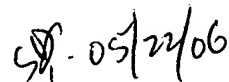
- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

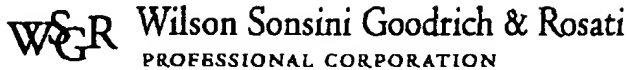
Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Ramin Akhavan was informed that upon reviewing the contents of the 'Memorandum' he sent in by facsimile on 05/18/06 and based on MPEP 713.09, the Examiner of record has decided not to grant an after-final interview in the finally-rejected application 09/393,590, because the Examiner is not convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration and without a new search. He was told that the four items listed in the memorandum were a part of Applicants' after-final amendment which was already considered and denied entry for the specific reasons listed in the Advisory Action mailed 05/12/06. The Examiner indicated that with regard to item 1 in the memorandum, she agrees with the statement he made in the previous telephonic conversation that finality of the previous Office Action is a petitionable issue.

Handwritten signature of S. Devi, dated 05/24/06.

S. DEVI, PH.D.
PRIMARY EXAMINER



11921 Freedom Drive, Suite 600
Reston, VA 20190
PHONE 703-734-3100
FAX 703-734-3199
www.wsgl.com

MEMORANDUM

To: Examiner S. Devi (USPTO)
From: Ray Akhavan (WSGR)
Date: May 18, 2006
Re: Application Serial NO. 09/393,590, Moyer et al: Agenda for Personal Interview on May 25, 2006

Dear Examiner Devi:

Pursuant to your request, the following provides an outline for what is sought to be discussed in the interview next week:

1. Finality of the previous Office Action.
2. Non-entry of the After-Final Amendments.
3. Implications of After-Final Amendments on rejections of record.
4. Considerations for rejections under § 112.

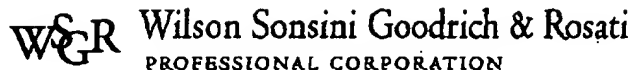
It is very much appreciated that you are granting this opportunity to discuss certain issues, which if resolved, will move prosecution forward in a positive manner. Further, it is earnestly believed that items 1-4 above present valid issues for reconsideration, which were set forth in the response after-final.

If you should have any questions or concerns about the outlined agenda, please feel free to contact me, at 703-734-3132. Thanks again.

Very truly yours,

/s/

Ray Akhavan
Reg. No. 58,120
Wilson Sonsini Goodrich & Rosati, P.C.



Date: 5/18/2006 4:36:10 PM

To: ExaminerDevi

Fax: 5712730854

From: Akhavan, Ray

Fax Contains: 2 pages (including this sheet). If incomplete, please contact sender.

Subject:

MEMO - May 25 Personal Interview Written Agenda.doc

Palo Alto Headquarters
850 Page Mill Road
Palo Alto, California 94304-1050
Ph 650-493-9300
Fx 650-493-6811

New York
12 East 49th Street
30th Floor
New York, NY 10017-8203
Ph 212-999-5800
Fx 212-999-5899

Salt Lake City
2795 East Cottonwood Parkway
Suite 300
Salt Lake City, Utah 84121-6928
Ph 801-993-6400
Fx 801-993-6499

San Francisco
One Market, Spear Tower
Suite 3300
San Francisco, CA 94105-1126
Ph 415-947-2000
Fx 415-947-2099

Austin
8911 Capital of Texas Highway North
Westech 360
Suite 3350
Austin, Texas 78759-8497
Ph 512-338-5400
Fx 512-338-5499

Reston
Two Fountain Square, Reston Town Center
11921 Freedom Drive
Suite 600
Reston, VA 20190-5634
Ph 703-734-3100
Fx 703-734-3199

San Diego
12235 El Camino Real
Suite 200
San Diego, CA 92130-3002
Ph 858-350-2300
Fx 858-350-2399

Seattle
701 Fifth Avenue
Suite 5100
Seattle, WA 98104-7036
Ph 206-883-2500
Fx 206-883-2699

This fax may contain confidential and privileged material for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited.
If you are not the intended recipient please contact the sender and destroy all copies.

"Entire Transmission Copyright © 2005 Wilson Sonsini Goodrich & Rosati. All Rights Reserved."

CPAGE 1/2 * RCVD AT 5/18/2006 7:36:15 PM [Eastern Daylight Time] * SVR:USPTO-EFAXRF-2/6 * DNIS:2730854 * CSID:6504936811 * DURATION (mm-ss):00-52